



the threat to cease their actions. Mr. LeBarge also wondered what the purpose was of receiving sex offender notifications at his home. He said he had put a message on Frambors.com asking residents to not harass these people as they had served their time.

### PUBLIC HEARINGS

Consideration of Change of Officer/Director – Chili’s Grill & Bar, 120 Worcester Road  
Mr. Andrew Upton was an attorney who represented the parent company of Chili’s. He said the change of officers was at their corporate office in Dallas, Texas and not in Town. Mr. Upton said this was required by the Alcoholic Beverage Control Commission (ABCC) and Ms. Murphy noted that the ABCC stated that this application was in compliance.

MOVED: To grant a change of officer/director to Chili’s Grill & Bar.

Motion: Mr. Sisitsky

Second: Mr. Giombetti

VOTE: 4-0-0

### Consideration of New Common Victualer’s License – Dunkin Donuts, 1670 Worcester Road

Mr. Paul Galvani was an attorney who represented the applicant. He said he handled previous applications for this project and that the site was substantially complete. Mr. Galvani said that it was one of the most attractive Dunkin Donuts anywhere. He said it was his impression that they had received all of the required approvals from the Town Departments.

Mr. Giombetti said the Dunkin Donuts on Route 9 had a stacking problem and asked Mr. Galvani how many cars could be stacked up before they were on Route 9. Mr. Galvani said approximately 15 and that the other site only had stacking for 4-5.

MOVED: To grant a Common Victualer’s License to Dunkin Donuts. .

Motion: Ms. Esty

Second: Mr. Sisitsky

VOTE: 4-0-0

### ALCOHOL VIOLATIONS – CHIEF CARL & LT. WUORIO

Ms. Esty asked if the Board could collectively hear the cases of the five establishments that had already agreed upon their sanctions. Mr. King said the Board could do that if each agreed. Chief Steve Carl said that they should be grouped by violation type and that Franco’s Café Italiano, Ipanema Brazilian Grill, and Skazka International Foods could be grouped together first. Ms. Murphy asked if representatives were present from these establishments, which they were.

### Consideration of:

- Franco's Café Italiano, 653 Worcester Road – Failure to attend annual alcohol seminar. Proposed suspension: One day and \$100.00. Recommendation: Agreed upon.
- Ipanema Brazilian Grill, 17 Edgell Road – Failure to attend annual alcohol seminar. Proposed suspension: One day and \$100.00. Recommendation: Agreed upon.
- Skazka International Foods, 159 Concord Street – Failure to attend annual alcohol seminar. Proposed suspension: One day and \$100.00. Recommendation: Agreed upon.

Chief Carl said all three establishments missed the Town's mandatory training on March 2, 2005 and each had various reasons for not attending. He said they had all agreed on their sanctions. Ms. Murphy asked if they received the information they missed at the alcohol seminar. Lt. Wuorio said he gave handouts to those who requested them and those who did not yet have this information could get a copy from him.

Mr. Giombetti asked about the determination of the date of the one day suspension. Lt. Wuorio said the seminar was on a Wednesday so the suspension would also be on a Wednesday.

MOVED: To accept the recommendation of the Police Department for Franco's Café Italiano, Ipanema Brazilian Grill, and Skazka International Foods as agreed upon.

Motion: Ms. Esty

Second: Mr. Giombetti

VOTE: 4-0-0

MOVED: To leave the date of suspension at the discretion of Lt. Wuorio.

Motion: Ms. Esty

Second: Mr. Giombetti

VOTE: 4-0-0

Consideration of:

- Oriental Pearl, 62 Water Street – Other alcohol violation. Proposed suspension: Three days and \$300.00. Recommendation: Agreed upon.
- Water Street Wine & Spirits, 1 Nicholas Road – Other alcohol violation. Proposed suspension: One day and \$300.00. Recommendation: Agreed upon.

Mr. Sisitsky asked what these penalties were for. Chief Carl said that Water Street Wine & Spirits had violated policy by having a person working in the evening who was not registered with the Police Department. He said that their management was very responsive to this matter and they terminated the manager who was responsible for this violation.

Chief Carl said that Oriental Pearl had a waitress who was not registered to serve alcohol who served two people. He said they have four trained servers and no prior violations.

Ms. Murphy asked if anyone wanted to comment.

Mr. Xin Quan Gao (Andy) was a manager from Oriental Pearl. He said his wife was working that night and that he instructed her to get beers for two regular customers. Mr. Gao said he would have served them but he had to pick up his daughter from the babysitter. He said his father, who was certified, was in the kitchen preparing the food but that he should have had him serve these two customers. Ms. Murphy said that this was an unfortunate situation but that the Town had strict rules regarding alcohol and insisted that everyone adhere to them in every situation. Mr. Gao said he understood and that it would not happen again, noting that his wife was now certified. Ms. Murphy said that this was important for citizen safety.

MOVED: To accept the recommendation of the Police Department for Oriental Pearl and Water Street Wine & Spirits.

Motion: Ms. Esty

Second: Mr. Giombetti.

VOTE: 4-0-0

Consideration of:

- Bertucci's Restaurant, 150 Worcester Road – Board of Selectmen's meeting.  
Proposed suspension: Two day suspension and \$300. Recommendation: Agreed upon.

Chief Carl said the violation was that the Manager and Assistant Manager of record were no longer employed by Bertucci's and that Assistant Manager of record never registered with the Town as a certified alcohol server. Mr. Frank Benanti was an attorney who represented Bertucci's. He said he spoke to Lt. Wuorio and that Bertucci's wanted to explore the possibility of making a donation to a local charity of the Board's choice in lieu of a the suspension. Mr. Benanti said the suspension would be detrimental to business and also to their employees – many of whom were Framingham residents – especially due to a lack of tips. He said it was an administrative violation so if this donation was not possible he wanted the suspension to be served on a Monday and Tuesday. Mr. Benanti said that the donation in lieu of suspension would be the same as the revenue that would have been lost over the two days of suspension. Chief Carl said that since the violation was discovered at a Board meeting and since the Board met on Tuesdays that a Monday and Tuesday suspension would be in order. He said it was at the Board's discretion as to whether they wanted to accept a donation in lieu of suspension.

Ms. Esty asked for a lost cost figure, to which Mr. Benanti replied that he could explore that with their accountant and discuss with the Board. Mr. Sisitsky said the Board had heard the donation in lieu of suspension suggestion before but was unsure if they could allow it. Mr. King said that the ABCC could accept such a fine in lieu of suspension but that the local board could not. He said he understood it would be helpful for Bertucci's but that it would create administrative problems for the Town. Ms. Esty said accepting a donation was a slippery slope and that this would make management more alert in the future. Ms. Murphy said that she was interested in exploring this donation option further, especially because it was not an alcohol violation but an administrative one. Mr. Sisitsky suggested that the Policy Subcommittee look into this in the future and said that if the

Board approved this tonight then it would be unfair to those who had already agreed on their penalties. Mr. King said that the ABCC could not substitute the Board's suspension for a cash fine. He said that he did not believe the Board had the jurisdiction to make such a fine. Board members agreed that the Policy Subcommittee should look into this issue as it was intriguing but could also pose numerous problems. Mr. Kerry Strayer was an attorney for the Olive Garden. He said that the Board had authority under section 7(b)(12) of its own policies to accept a fine in lieu of suspension. Mr. Strayer said the fine could be up to 50% of the lost profit from a suspension. He gave the Board a copy of this policy and said most towns did not have this policy so it was surprising to him. Mr. King said that the Olive Garden must have had an old version of the alcohol policy, which Mr. Sisitsky said was troubling. Mr. King said the Town mailed the alcohol policy to each licensed establishment every year. Ms. Murphy concurred that the section referred to did not exist in the Town's policy and that it would be unfair to grant this option to Bertucci's.

MOVED: To accept the recommendation of the Police Department for Bertucci's Restaurant as agreed upon.

Motion: Ms. Esty

Second: Mr. Sisitsky

VOTE: 4-0-0

Mr. Benanti asked if the suspension would be on a Monday and Tuesday, which Chief Carl said it would be. Mr. Benanti inquired if the Board didn't have the ability to fine a licensee how it could have just voted to fine Bertucci's \$300.00. Mr. Sisitsky said it was an administrative cost and not a fine.

Consideration of:

- Joe's American Bar & Grill, 1 Worcester Road – Failure to attend annual alcohol seminar. Proposed suspension: One day and \$100.00. Recommendation: Not agreed upon.

Kevin Considine was an attorney for Backbay Restaurant Group, the parent company of Joe's American Bar and Grill. Chief Carl said that Joe's missed the training seminar and that he made six checks for violations in 2004-05 and found none. He said the manager had never heard from the home office so she could not agree or disagree with the sanctions.

Mr. Considine introduced three exhibits consisting of the Town's policy, an affidavit from an employee of Backbay Restaurant Group, and the notice from the Town regarding the alcohol violation. He said they did not dispute the policy but that they never received a notice of the alcohol seminar. Mr. Considine referred to an affidavit from Ms. Karen Brooks, the head of corporate licensing and a manager, where she stated that she never received notice of the seminar and if she did she would have made sure that they attended. Mr. Considine said that Kimberly Tremblay, the store manager at the time, also indicated that she never received the letter of notice. He said that had she received the notice she would have notified Ms. Brooks. Mr. Considine said the present manager, Mr. Steven Decus, was working in a non-management capacity at Joe's in February and

March and said he never saw a notice either. Mr. Considine read a copy of the notice that he received today which he said was addressed to "Dear Licensee." He said that it was important to note that Joe's address was listed as 1 Worcester Road and that there were quite a few establishments that shared this address. Mr. Considine added that the Regional Manager, Mr. Rob Adrian, said that Joe's frequently received mail for other stores that shared this address. He said that it appeared Joe's never received the notice. Mr. Considine referred to section 138 and said that he did not see where failure to attend an alcohol seminar was a baseline offense. He said the Town's policy referred to this as an aggravating factor but not a reason to lawfully suspend a license. Mr. Considine said that when Joe's found out they missed the seminar they asked the Police Department if they could make it up in anyway. Mr. Sisitsky referred Mr. Considine to page 12, paragraph I, item four of the Town's policy which allows the Board to impose penalties if a licensee fails to attend mandatory prevention programs. Mr. Considine said he was not suggesting that the Board did not have the power to impose a penalty but that attendance was an aggravating factor and not a baseline offense. He said the crux of his argument was that Joe's did not receive notice and explained court decisions about what was appropriate notice. Mr. Considine said that the letter of notice should have been sent by certified mail. He said that their preference was for mail to go to the home office but that this was not the Town's policy.

Chief Carl referred to a template of the letter of notice he sent out and said that the actual letter sent by the Town was addressed to Ms. Tremblay. He said all the other establishments received their notice and found it hard to believe that Joe's did not receive theirs. Chief Carl said he met with Ms. Tremblay and she stated that the letter may have been delivered but that she never received it. Mr. Considine said that during that meeting the Chief acknowledged that there were many establishments located at 1 Worcester Road. Lt. Wuorio said it was not the Town's policy to send letters only to the restaurant and that they would send or "cc" notices to the corporate office if asked but that he hadn't been asked in this situation.

Mr. Considine said that Joe's was opposed to the suspension for the reasons he outlined.

MOVED: To accept the proposed recommendation by the Police Department for Joe's American Bar & Grill.

Motion: Ms. Esty

Second: Mr. Giombetti

VOTE: 4-0-0

Consideration of:

- The Olive Garden Italian Restaurant, 1-3 Worcester Road – Failure to attend annual alcohol seminar. Proposed suspension: One day and \$100.00.  
Recommendation: Not agreed upon.

Chief Carl said once the Olive Garden found out about the violation that they immediately rectified the situation. He said those in management responsible for the problem were no longer with the establishment. He also cited an issue with change of management.

Mr. Strayer said that the Olive Garden also did not receive notice of the seminar. He said the Olive Garden had now implemented a system so that each January it will check with the Police Department to see when the seminar will be held. Mr. Strayer referenced the issue with the change of management and said that the Olive Garden took action to resolve the matter. He requested the Board not suspend the license in this case because they did not receive the notice and because it was an administrative error. Mr. Strayer said that the Olive Garden took their alcohol server's license responsibilities very seriously.

MOVED: To accept the proposed recommendation by the Police Department for the Olive Garden Italian Restaurant.

Motion: Ms. Esty

Second: Mr. Sisitsky

VOTE: 4-0-0

Ms. Murphy called for a five minute break at 8:03 PM.

Ms. Murphy called the meeting back to order at 8:13 PM.

Consideration of:

- Legal Seafoods, 50 Worcester Road – Board of Selectmen's meeting. Proposed suspension: Two days and \$300.00. Recommendation: Not agreed upon.

Lt. Wuorio noted that Legal Seafoods had recently agreed to the sanctions and that their attorney would like to see if they could serve it at another time.

Mr. Rick Heller was the attorney representing Legal Seafoods. Chief Carl said the violation was a management change issue with their liquor license. Ms. Murphy noted that Legal Seafoods might not have had a manager of record for six months and an assistant manager of record for four months. Mr. Heller said that his client took licensing very seriously and that this was an unfortunate oversight that would not happen again. He said that since this was an administrative violation that Legal Seafoods would like to serve their suspension during two days in early January. He said they would also like to serve meals during the holiday season to a homeless shelter for a day. Chief Carl said if the Board chose to postpone the suspension then the Police Department would do so.

MOVED: To accept the recommendation of the Police Department for Legal Seafoods as agreed upon.

Motion: Ms. Esty

Second: Mr. Sisitsky

VOTE: 4-0-0

Ms. Murphy thanked Legal Seafoods for their generous offer to serve the homeless during the holidays.

Consideration of:

- Star House Chinese Restaurant, 595 Waverly Street – Failure to attend annual alcohol seminar. Proposed suspension: Two days and \$300.00. Recommendation: Not agreed upon.

Chief Carl said he did not see a representative from this establishment present. Ms. Esty asked if the Board could proceed and Mr. King said Star House was notified by certified mail so they could. Chief Carl said that the manager and assistant manager were listed as the same person and that Star House had missed the training. Ms. Esty asked if there would be a separate violation coming forth from having one person hold two positions. Chief Carl said that a language barrier may have contributed to this violation and stated that he did not believe this was a malicious mistake but it was one that must be rectified. Lt. Wuorio said they came in to file for an assistant manager but that person was not a U.S. citizen and so they had to refile but this paperwork had not yet been completed.

MOVED: To accept the proposed suspension by the Police Department for Star House Chinese Restaurant.

Motion: Ms. Esty

Second: Mr. Giombetti

VOTE: 4-0-0

Consideration of:

- Naked Fish Restaurant, 725 Cochituate Road – Failure to attend annual alcohol seminar. Proposed suspension: Two days and \$300.00. Recommendation: Not agreed upon.

Chief Carl said they failed to attend the alcohol seminar and that there was also a management issue with proper documentation not being filed with the department and not being a certified alcohol server.

Mr. Steve Vallarelli was Vice President of Operations for Naked Fish Restaurant. He said they took alcohol serving very seriously and that this would be a blemish on their otherwise clean record of five years. Mr. Vallarelli said Naked Fish was in compliance currently and asked the Board to consider the fact that the letter was not sent via certified mail. He said that the punishment did not fit the crime and that two days of suspension would cost his establishment thousands of dollars. Mr. Vallarelli said that he was glad to hear mail could be sent to corporate offices because in a busy restaurant mail was often mishandled. He said a second offense would carry a suspension of 7-10 days and that was very significant. Ms. Murphy said that the business community was very important to the Town. She said that the assistant manager stated that he received the letter but forgot to notify the appropriate person. Ms. Murphy said the Board took licensing very seriously and said she assumed there would not be a second violation by Naked Fish. Mr. Vallarelli said that he would look into the ABCC's appeal process.

MOVED: To accept the proposed suspension by the Police Department for Naked Fish Restaurant.

Motion: Ms. Esty

Second: Mr. Sisitsky

VOTE: 4-0-0



Consideration of:

- Metrowest Tropical Foods, 195 Hollis Street – Failure to attend annual alcohol seminar. Proposed suspension: Suspension of wine and malt liquor license until such time that the manager and assistant manager has been changed.  
Recommendation: Not agreed upon.

Alex Ibarra represented Metrowest Tropical Foods. He said his step-mother and father were in Florida during the time of the seminar. Chief Carl said that they spent extended periods of time in Florida and that this would put them in violation of not being on the premises regularly. He said their wine and malt license should be suspended until such a time that someone responsible was able to be around to run the establishment. Chief Carl noted four major violations in less than ten years time. He said this establishment was in an area that the Town was trying to improve and that this establishment was detracting from the quality of life of the area, a statement with which Mr. Ibarra disagreed. Mr. Ibarra said that many of the previous violations came from employees who were in the process of being trained and that his father was only away for four to five weeks out of the year. He said his mother had recently retired as a manager at a Mobil station and that she would be coming on board to assist them. Mr. Ibarra asked the Board to not suspend the license because his mother would be registered on Thursday and that she could not become certified sooner because she had been away on a religious retreat. He said they took their alcohol license very seriously. Chief Carl said that if the mother is certified then he would recommend a two day suspension and \$300 cost for investigation similar to others who were sanctioned for this type of violation. He said if the mother was not registered by Thursday then he recommended their license be suspended until such a time when an appropriate person could be put on the license. Mr. Sisitsky said the earliest the Board could vote that change into effect was September 13, 2005. Chief Carl urged the Board to suspend the license until a new manager was registered and approved by the Board. Ms. Esty inquired about a related case in the investigation about stock being sold from another store. Chief Carl said formula was being sold from a Store 24 and that at that time they recommended the father be in the store more often and even if he was away for five weeks then he was unable to properly supervise the store. Mr. Giombetti said that basic business practices were not being adhered to and that he strongly agreed with the Chief's recommendation and cautioned against a future violation.

Mr. Ibarra said that they did have a manager and assistant manager and that his father was on the premises. He said he was unable to get his attorney to be present for this hearing due to short notice and that he also was unable to get his father to come up from Florida but that his father would be returning that week. Chief Carl said the father confirmed that he was away for a couple of months at a time. He said that management needed to be there regularly and that this could have been resolved a while ago by having Mr. Ibarra's mother listed as the assistant manager. Chief Carl said this was a safety issue for the community and that is why he had a harsh recommendation. Ms. Murphy said she appreciated Metrowest's business being in the community and said she was confident that they would be able to move forward from this and be better for it. She said she concurred with the Chief's recommendation.

MOVED: To accept the proposed recommendation by the Police Department for Metrowest Tropical Foods to suspend the license until the applicant has appropriate managers approved by the Board, effective August 31, 2005.

Motion: Mr. Giombetti

Second: Ms. Esty

VOTE: 4-0-0

Ms. Murphy thanked Chief Carl and Lt. Wuorio for their work.

### ACTION ITEMS

#### Recommendation for an October 11, 2005 Special Town Meeting – Mr. King

Mr. King said he recommended amending this date to October 26, 2005 because of budgetary issues and the Yom Kippur holiday. He said that there was recently a settlement with the Health Coalition for a three-year contract but that it would not be voted on until the end of September. Mr. King said this ratification was critical to his budget recommendation. He recommended that the Board open a warrant for October 26, 2005, with articles due by September 16, 2005, and to have the Board close the warrant at its meeting on September 20, 2005.

Ms. Esty noted that Town Meeting may want to change the by-law that requires Town Meetings to be held on Tuesdays, Wednesdays, or Thursdays as this by-law was based on the Board meeting on Mondays. Mr. King said this change made sense. She asked if Mr. King had conferred with the Moderator and Town Clerk about this date, which Mr. King said he hadn't but he knew Assistant Town Manager Mark Purple had conferred with Valerie Mulvey, Town Clerk. Ms. Esty said the three things that made a Town Meeting were quorum, the Moderator, and the Town Clerk and that she hoped they would be involved in such discussions. Ms. Murphy said that legally the Board was the entity that opened the warrant for Town Meeting. Ms. Esty agreed but said the Town Clerk and Town Moderator were required to be there. Mr. King said that he recognized that the date needed to be convenient for the Town Clerk and Moderator but that the business of the Town needed to get done and time was becoming an issue, especially for the legal settlement. Mr. King said that if there was an issue with a date conflict that was not resolvable then the warrant did not close until September 20, 2005 so changes could be made.

MOVED: To open a warrant for a fall Special Town Meeting to be held Wednesday, October 26, 2005, with a deadline of filing articles by September 16, 2005, and for the warrant to be closed at the September 20, 2005 Board meeting.

Motion: Mr. Sisitsky

Second: Mr. Giombetti

VOTE: 4-0-0

#### Consideration of Policy Subcommittee's Recommendation

Ms. Murphy said that this was coming forward for a second reading. She said the Board had talked about addressing other policy issues regarding alcohol licenses but that they

had not yet had an opportunity to meet. Ms. Esty asked if the Board could suggest to the Policy Subcommittee that letters regarding mandatory meetings be sent certified, which Ms. Murphy said was a good idea. Mr. Giombetti said that the Board also needed to look at the BYOB issue, which Ms. Murphy said was going to be a separate policy. Ms. Murphy asked if the Board wanted to look into donations in lieu of suspension as well. Mr. Sisitsky said that Town Counsel should look into this issue and give his advice. Ms. Esty worried that larger franchises would have an unfair advantage in this instance.

MOVED: To approve the second reading of the alcohol policy.

Motion: Mr. Sisitsky

Second: Ms. Esty

VOTE: 4-0-0.

Mr. King said the Town would send notices via certified mail as a matter of practice but that the Board could add this to the policy the next time they amended it.

#### MEDICARE D PRESENTATION

Mr. King gave a PowerPoint presentation on Medicare D, outlining the costs, options, and recommendations.

Ms. Murphy asked if Mr. King could give an idea of the expense in terms of real dollars to people. Mr. King said that the plan paid \$1,500 of the first \$5,000 they spent per year on prescriptions. He said that for anything over \$5,000 they only paid five percent.

Mr. Sisitsky asked if town employees were Medicare eligible. Mr. King said that many retirees were eligible through a spouse or other jobs. He said anyone hired after the mid-1980s was eligible and has Medicare taken from their pay. Mr. King said the Town paid \$1 million per year for this and that he wanted to get more retirees on Medicare since they were the first payer. He said there were currently 1,000 retirees on Medicare.

Mr. Sisitsky asked why doing nothing was not an option. Mr. King said that is how the law reads.

Mr. Sisitsky asked if this applied to all employees, regardless of which health plan they chose, to which Mr. King responded that it applied to all who were Medicare eligible.

Mr. Giombetti asked how much the Town received per eligible person, to which Mr. King responded a maximum of \$1,333 per person but that the average reimbursement was \$668 per person. Mr. King thought the actual reimbursement would be around \$500 per person. Mr. Giombetti asked how many were expected to be eligible to which Mr. King responded that he estimated about \$500,000 for the Town in subsidies, though it was complicated to estimate an exact number.

Mr. King recommended getting certification from Blue Cross, working with a consultant to help the Town apply at a cost of \$3,000, and to notify all employees before November 15, 2005 and encourage them to not to take Medicare D.

Mr. Giombetti asked how the Town would respond to citizen inquiries about this issue. Mr. King said that all retirees received a letter from the Town every October and that the upcoming letter could include information about Medicare D. He also said there would be a Medicare D seminar. Mr. Giombetti requested that the Town do outreach at the Callahan Center or in neighborhoods because this was such a complicated process and Mr. King agreed. Ms. Murphy asked if Town employees elected to do this if it would increase paperwork and time, which Mr. King said it would a slight bit. Mr. King said that based on the MedEx supplemental plan offered to retirees in 2004 the Town spent almost \$2 million on prescription drugs. Ms. Murphy stated that there were hearings on Thursday about single-payer health care and that she would be testifying at these hearings. She said this process would be more complicated for people who stood to benefit the most. Ms. Murphy asked if the Town selected the plan and Mr. King said each employee made their own individual decision and that the Town must decide as to what to advise its employees. Mr. Giombetti said he would like to see a communication plan, which Mr. King said he would bring to the next meeting.

MOVED: To support the Town Manger's Medicare D Action Plan with the subsidy option as outlined by Mr. King.

Motion: Mr. Giombetti

Second: Mr. Sisitsky

Motion: 3-0-1 (Ms. Esty abstained as she noted she was a recipient.)

## TOWN MANAGER'S REPORT

### *Budget*

Mr. King said none of the income sources for the fiscal year 2006 budget that they had hoped for in the spring had materialized but that many expenses had. He explained that the Town might need to make reductions. Mr. King said that Building Services needed about \$100,000 for the heating system as a stop gap measure as the system currently does not work. He said that work had started and he hoped it would be finished by the end of September so the Town Hall could have heat. Mr. King stated that energy was a concern for three reasons: 1) Gas and oil costs continued to increase steadily, 2) The hurricane would have an effect on these costs, and 3) The electricity contract expires on March 31, 2005, leaving three months at the end of the fiscal year where the Town would not have a locked-in rate and could be looking at double the kilowatt hours. He said that the Town needed to look seriously at a true energy conservation plan. Mr. King said there was still a snow deficit and there was only a slight chance that the State would provide aid for this when the legislature returned from summer vacation. Ms. Murphy said the State had the money for this and Mr. Giombetti said it did not look promising that the Town would receive aid because historically they had funded this before this point in the year.

Ms. Esty thought there was money left over from the Fafard case, which Mr. King said there was and that the Town would have to look in places like that to come up with additional funding. Mr. King said the only potential for real income was the trash case that was on appeal and it was for over \$300,000.

Ms. Esty said the Town needed to keep apprised of the Nyanza project because it involved a larger lawsuit and Ashland took steps to separate themselves from that suit.

Mr. King said it was the Town's position that this was a separate issue. He said that the deal was probably dead because the Town's agreement was with JPI and they had withdrawn. Ms. Esty asked if the Town should formalize this and Mr. King said this was a subject for executive session. Mr. King said the deal components were public but the contract issue was not because it involved another lawsuit. Ms. Esty noted that Ashland was suffering from a lack of a water source and that the Board needed to keep abreast of this situation as well. She queried as to whether the Town should open its wells and ensure that reservoirs one and two were clean so that it could get into the water production business.

Mr. King said that other budget requirements were \$100,000 in legal fees and \$100,000 in a legal settlement. He said the Town may be looking at close to \$1 million in the worst case scenario without considering any major problems that could also arise. Mr. King said that the Town also came into this with a \$200,000 deficit. Mr. Giombetti asked if Mr. King would come before the Board before presenting this at Town Meeting. Mr. King said he would and he reiterated that one of the keys to this situation was the contract with the Health Coalition, stating that if it is not ratified by the employees then the Town would have to add money to the health insurance account.

Ms. Murphy suggested that it was time for the Board's annual meeting with area legislators. Mr. Giombetti suggested making it a semi-annual meeting.

#### *Fitts Building*

Mr. King announced that there would be a ceremony for Mr. Fitts and his commitment to the downtown through things like the new façade on his buildings. He said the event would occur on Wednesday, September 7, 2005 at 4:00 PM.

#### *Division Head Updates*

Mr. King gave the Board a tentative schedule for the updates.

#### SELECTMEN'S REPORTS

Mr. Giombetti referenced the grant guidelines provided by the Metrowest Community Foundation and said the Town should apply before the October 14, 2005 deadline. He also asked if there had been any response to the inquiry about adding more Board members, which Mr. King said he hadn't.

Mr. Giombetti said he read in the *Framingham Tab* that the Framingham Community Theater had been established and that there was an audition on September 18, 2005 from 2:00 – 5:00 PM. He said they were targeting a first production in January and thought that this was a wonderful addition to the community.

Mr. Giombetti said that he attended the Water and Sewer Rate Setting meeting and that they reviewed the current model with the consultant. He said the process was going slower than he would like due to the complexity of the rate model and the consultant's busy schedule. Mr. Giombetti said that the committee would fast track the issue in mid-

September. He also noted that the Chamber had hired its own consultant to look at the rates and that he wanted to make sure they did not arrive at two different methodologies.

Mr. Giombetti said the Social Services Subcommittee met for the first time yesterday and that SMOC, Wayside, Salvation Army, and Advocates were all in attendance. He said it was a good first introductory meeting and that they discussed issues around public education, selectmen education, how places were sited, and involving people from the State. Ms. Murphy asked if the meeting had been posted which Mr. Giombetti said it was. Ms. Esty said she had a problem with having meetings during day and wondered if the discussions would come to the full Board at a public meeting. Mr. Giombetti said he would bring back information to the Board. Mr. Sisitsky said they did not talk about specific projects like Winter Street but more about agencies and educating people about community needs. Mr. Giombetti said a goal of the Subcommittee was to build positive relationships.

#### Update on Route 135/126 Project

Mr. Sisitsky said that he and Mr. Stasik met with Ms. Kathy Bartolini, head of the Planning Department, to begin preparing for a public meeting on resurrecting plans for the railroad crossing downtown. He said the first public meeting would be held on Monday, September 19, 2005 at 7 PM. Mr. Sisitsky said he planned on coming before the Board on September 13, 2005 and make a recommendation as to specific membership on that committee. He said the goal would be to update the 1996-97 study, present it to the State and hopefully get State funds to continue the study, and end up with a design for an underpass to deal with the traffic. Ms. Esty asked if the committee was considering continuing with Rizzo Associates on this project. Mr. Sisitsky said the original intent was to have Rizzo Associates come review their study and not do anything more. He said the State indicated that the Town may have to do an RFP for a consultant, which Ms. Bartolini was looking into.

Mr. Sisitsky said he was also on the Chief Financial Officer Search Committee and that they had interviews over the coming two days.

Ms. Esty said she hoped the Town could submit grants to the Metrowest Healthcare Foundation. She noted asthma, child obesity, and adult obesity as issues that could be addressed. Ms. Murphy asked if Board members had specific projects that they would like to see the Town address through this grant. She asked Mr. King if personnel were available in the Planning Department for grant writing, to which he responded not for an October 14, 2005 deadline. He said they could help out but the basic information would have to come from the originating departments. Mr. King stated that the Town had received money from grants in the past and that if the Board had suggestions for specific projects that he would contact the appropriate departments to see if they could put together the necessary information. Ms. Murphy suggested that she and Ms. Esty meet to generate ideas and she stated that the grants should be submitted by the Board, not just a specific Department. Ms. Esty suggested starting with Parks & Recreation and

Tercentennial Park since they had received other grants and should already have information compiled.

Ms. Esty referenced the Town Manager's "green sheet" report about the Portuguese Club parking lot. She wondered about the arrangement the Town had about 15 years ago after the school was torn down. Mr. King said the Town leased them the parking lot for the value of the taxes assessed on the lot. Ms. Esty said this wasn't really taxable property and that the Portuguese Club couldn't afford this. She said that Town Meeting agreed that they should try to work something out, which Mr. King said he had tried to do and thought they had an agreement. He said it was a policy decision that the Board needed to make. Ms. Esty said she would like to explore this further without the inclusion of the Medical Center.

Ms. Esty said that she and Ms. Murphy had been attending the Housing Study Committee meetings. She said grant money was awarded by the Department of Community Development and its purpose was to sell the original housing plan. Ms. Esty said that the Town might be heading in a direction that does not sell the original plan but reflects a broad picture of the housing needs and inventory in Framingham. She said they were taking this back to their full board and ensure that this was something useful for the Town, not necessarily the State. Ms. Esty said there was a suggestion that if the State did not want to fund this then the Town could use the first \$50,000 out of the Master Plan fund to pay for this study. She said the committee was also exploring transitional housing that was not included in the 10%.

Ms. Esty raised questions about Mr. King's policy on health benefits for employees activated in the armed services. Ms. Esty said she still had not gotten answers to her questions. She handed out these questions to Board members and presented them with a timeline of events regarding attempts to obtain responses to the questions. Mr. King said that he changed the policy after Town Meeting so he thought the issue was resolved. He said he spoke with Christopher Petrini, Town Counsel, and he acknowledged that he still was formulating answers to Ms. Esty's questions. Ms. Murphy asked Ms. Esty what the questions were, to which Ms. Esty replied that the policy might not agree with what Town Meeting adopted. Ms. Esty was particularly concerned that there shouldn't be a gap in coverage for these families. Mr. King said that he believed he had complied with Town Meeting's vote by changing the policy so that all active service people received the benefits. He asked what further fixes were needed. Ms. Esty wondered if either of the two families affected owe anything to town, to which Mr. King responded he was unaware of this but that he would look into it. Mr. King wondered how the Town could retroactively reinstate health coverage. Ms. Esty said it was unfortunate that the interpretation was that they were on leave without pay. Mr. Giombetti would like Town Counsel to respond to the questions and he wanted to find out if the Town was billing any of these families. Mr. King said that he was not sure if Town Meeting's vote required the Town to offer the benefits. He said that based on the spirit of the vote that the Town did offer the benefits. Ms. Murphy said no one lost health coverage. Ms. Esty said these people were actively serving and shouldn't have to worry about this. Mr. King said Ms. Esty was suggesting that the Town retroactively cover people in the gap period, to which

Ms. Esty replied that there should never have been a gap. Mr. Sisitsky said the Board needed more information on liability before proceeding.

Ms. Murphy said she attended the dedication of Mayo-Collins Square, named for two local women who were active in helping to achieve the right for women to vote. She presented a proclamation on behalf of the Board.

Ms. Murphy said she felt it was time for the Board to meet with their State delegation.

Ms. Murphy inquired as to the status of Board minutes for the past several months. Mr. Sisitsky said he recently received a large batch of past minutes and that he will be bringing them forward soon.

Ms. Murphy said the next meeting would be held on September 13, 2005.

MOVED: To adjourn at 10:14 PM.

Motion: Mr. Sisitsky                      Second: Ms. Esty

VOTE: 4-0-0

Respectfully submitted,

Charles J. Sisitsky, Clerk